

AMENDMENTS TO THE DRAWINGS

One (1) replacement drawing sheet is attached. The attached sheet includes changes to Figure 1.

In Figure 1, element 145 (Wireless Infrastructure) has been added. Support for the amendment to Figure 1 may be found, for example, at paragraphs [0045], [0046], [0050], [0052], and [0061]. In addition, the Applicants respectfully submit that it is common knowledge to those of skill in the relevant art that communication with electronic devices engaged in over-the-air service provisioning (OTASP) and over-the-air parameter administration (OTAPA) involves the use of a wireless infrastructure. The Applicant respectfully submits that this amendment merely conforms the drawings to the text, and does not add new matter.

REMARKS

As an initial matter, Applicant's representative wishes to express appreciation to Examiner Chow for the opportunity to discuss the Application during a telephone interview on September 22, 2005. It was agreed that the objection presented in item 4 on page 2 of the Office action is not appropriate, and that the text of paragraphs [0002]-[0004] is acceptable as filed. With respect to the drawing objection presented in item 7 on pages 2 and 3 of the Office action, it was agreed that drawing detail showing wireless communication, as supported by the Specification, will be added to Figure 1.

The Applicants wish to point out that the listing of rejections in the "Conclusion" section (see Office action item 16 on page 14) is inconsistent with the rejections listed in item 12, page 4; item 14, page 12; and item 15, page 13. The Applicants have addressed the rejections as stated in items 12, 14, and 15.

Amendments to the Specification

Regarding item (7) on pages 2 and 3 of the Office action, the Applicants have amended paragraph [0046] by adding the text "by a wireless infrastructure 145 ", to make reference to an additional element of Figure 1 that was added to conform the drawings to the specification. The Applicants respectfully submit that no new matter is added by this amendment.

Amendments to the Claims

Claim 12 has been amended to correct a minor typographical error. The Applicants respectfully submit that no new matter is added by these amendments.

Claim 17 has been amended to correct an antecedent basis issue. The Applicants respectfully submit that no new matter is added by these amendments.

Drawing Objections

The Office Action objects to the drawings of the Application with respect to claims 5 and 20 under 37 C.F.R. §1.83(a), stating that the drawings must show every feature of the invention

specified in the claims. The Applicants respectfully disagree. However, in an effort to move the Application towards allowance, the Applicants have amended Figure 1 as described above. Support for the amendments to Figure 1 may be found, for example, at paragraphs [0045], [0046], [0050], [0052], and [0061]. In addition, the Applicants respectfully submit that it is common knowledge to those of skill in the relevant art that communication with electronic devices engaged in over-the-air service provisioning (OTASP) and over-the-air parameter administration (OTAPA) involves the use of a wireless infrastructure. In light of the above, the Applicants respectfully request that the objection to the drawings under 37 C.F.R. §1.83(a) regarding claims 5 and 20 be withdrawn.

Rejections of Claims

Claims 1-31 are pending in the Application. Claims 1-31 were originally filed in the Application on March 24, 2004. Claims 1-31 were rejected in an Office action mailed February 28, 2005, to which a response was filed May 26, 2005. Claims 1 and 17 are independent claims. Claims 2-16 and 18-31 depend, respectively, from independent claims 1 and 17. The Applicants respectfully request reconsideration of the pending claims 1-31, in light of the following remarks.

Claims 1-7, 9-11, 15-20, 22, and 24-31 were rejected under 35 U.S.C. §102(e) as being anticipated by Parixit Aghera et al., US2004/0098715A (hereinafter “Aghera”). The Applicants respectfully traverse the rejection.

With regard to the anticipation rejections, MPEP 2131 states, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). MPEP 2131 also states, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding claim 1, the Applicants respectfully submit that the Aghera reference does not teach, suggest, or disclose, for example, an electronic device network, the network comprising a plurality of servers, and a plurality of electronic devices communicatively coupled to at least one

of the plurality of servers, each of the electronic devices being adapted to employ at least one of a plurality of update agents resident in the electronic device to update one of software and firmware in the electronic device, wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate update operations in the electronic device. If Applicants agree, **solely for the sake of argument**, that Aghera's "patch agent" corresponds to the "update agent" of Applicants' claim 1, then Applicants respectfully submit that the Office action has failed to show where Aghera teaches, suggests, or discloses "a plurality of update agents resident in the electronic device" as recited in Applicants' claim 1. The Aghera reference is silent with regard to the existence or use of a plurality of update agents in an electronic device, and the illustrations of Aghera show only a single "patch agent application". (See, e.g., element 106 in FIG. 7 and FIG. 8) Applicants respectfully submit that the Office action also fails to specifically identify where Aghera teaches the feature "wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate operations in the electronic device." The Office action states that "[t]he **patch agent** application sends negotiation **parameter values** (*parameters and data*) to the **server** and the server determines whether the mobile device requires a particular patch and if the device has enough resources to download and install the patch." (emphasis in original) (See Office action page 5, lines 27-33) Applicants respectfully submit that this action by the patch agent **sends information to the server** from the mobile device of Aghera. The Applicants respectfully submit that this action is different from and fails to anticipate "the electronic device is also adapted to provision the plurality of update agents with parameters and data to facilitate update operations in the electronic device" as recited in Applicants' claim 1, because in Applicants' claim 1, this action **by the electronic device** provides parameters and data **to the plurality of update agents in the electronic device**. Applicants' claim 1 does not recite sending negotiation parameter values to a server from the electronic device.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that Aghera is different from and fails to anticipate the Applicant's invention as set forth in claim 1. Applicants believe that claim 1 is allowable over Aghera. Because claims 2-16 are dependent upon claim 1, Aghera is different from and fails to anticipate claims 2-16, as well. Therefore, claims 2-16 are also allowable over the Aghera reference. The Applicant respectfully requests that the rejection of claims 1-7, 9-11, 15, 16 under 35 U.S.C. §102(e), be withdrawn.

Regarding claim 17, the Applicants respectfully submit that the Aghera reference does not teach, suggest, or disclose, for example, a method employing a plurality of update agents in an electronic device in an electronic device network, the method comprising communicatively coupling a plurality of electronic devices to at least one of the plurality of servers, employing at least one of a plurality of update agents resident in the electronic device to update one of software and firmware in the electronic device, and provisioning the plurality of update agents with parameters and data used to facilitate update operations in the electronic device. The Office action alleges that “Aghera’s disclosure definitely employs a ‘method’ which does all of the features in [sic] recited in claim 17.” (See Office action page 9, lines 17-19) The Office action fails to provide additional detail or reasoning for the rejection. The Applicants respectfully submit that the rejection of claim 17 is therefore limited to the arguments presented in the rejection of claim 1, addressed above. The Applicants also respectfully submit that claim 17 is therefore allowable for at least the same reasons as those presented above with respect to claim 1.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that Aghera is different from and fails to anticipate the Applicant’s invention as set forth in claim 17. Applicants believe that claim 17 is allowable over Aghera. Because claims 18-31 are dependent upon claim 17, Aghera is different from and fails to anticipate claims 18-31, as well. Therefore, claims 18-31 are also allowable over the Aghera reference. The Applicant respectfully requests that the rejection of claims 17-20, 22, and 24-31 under 35 U.S.C. §102(e), be withdrawn.

Claims 8 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over US2004/0098715A by Parixit Aghera et al. (hereinafter “Aghera”), in view of U.S. Patent No. 5,708,776 by Dan Kikinis (hereinafter “Kikinis”). The Applicants respectfully traverse the rejection.

With regard to an obviousness rejection, MPEP 2142 states that in order for a prima facie case of obviousness to be established, three basic criteria must be met, one of which is that the reference or combination of references must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination”, and that “although a prior art device ‘may be capable of being modified to run the

way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so” (citing *In re Mills*, 916 F. 2d 680, 16 USPQ 2d 1430 (Fed Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...,” citing *Al-Site Corp. v. VSI Int’l Inc.*, 174 F. 3d 1308, 50 USPQ 2d. 1161 (Fed Cir. 1999).

Regarding claim 8, Applicants respectfully submit that claim 8 is a dependent claim of independent claim 1. Applicants believe that independent claim 1 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera. Because claim 8 depends from claim 1, the Applicants respectfully submit that dependent claim 8 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 1. Therefore, the Applicants respectfully request that the rejection of claim 8 under 35 U.S.C. 103(a) be withdrawn.

Regarding claim 23, Applicants respectfully submit that claim 23 is a dependent claim of independent claim 17. Applicants believe that independent claim 17 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera. Because claim 23 depends from claim 17, the Applicants respectfully submit that dependent claim 23 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 17. Therefore, the Applicants respectfully request that the rejection of claim 23 under 35 U.S.C. 103(a) be withdrawn.

Claims 12-14 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over US2004/0098715A by Parixit Aghera et al. (hereinafter “Aghera”), in view of U.S. Patent No. 6,493,871 by Thomas D. McGuire (hereinafter “McGuire”). The Applicants respectfully traverse the rejection. Regarding claims 12-14, the Applicants submit that claims 12-14 depend directly or indirectly from independent claim 1. Applicants believe that independent claim 1 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera. Because claims 12-14 depend from claim 1, the Applicants respectfully submit that dependent claims 12-14 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claim

Appln. No.: 10/807,694
Response dated Oct. 6, 2005
Reply to Office Action of Aug. 10, 2005

1. Therefore, the Applicants respectfully request that the rejection of claim 12-14 under 35 U.S.C. 103(a) be withdrawn.

Regarding claim 21, the Applicants submit that claim 21 depends indirectly from independent claim 17. Applicants believe that independent claim 17 is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera. Because claim 21 depends from claim 17, the Applicants respectfully submit that dependent claim 21 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 17. Therefore, the Applicants respectfully request that the rejection of claim 21 under 35 U.S.C. 103(a) be withdrawn.

Conclusion

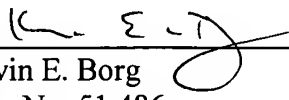
The Applicants believe that all of pending claims 1-31 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: October 6, 2005
McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100


Kevin E. Borg
Reg. No. 51,486

• Appln. No.: 10/807,694
Response dated Oct. 6, 2005
Reply to Office Action of Aug. 10, 2005

APPENDIX